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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,619	02/10/2004	Kevin P. Bishop	D5490	1571
30409	7590	05/19/2005	EXAMINER	
INTERNATIONAL ENGINE INTELLECTUAL PROPERTY COMPANY 4201 WINFIELD ROAD P.O. BOX 1488 WARRENVILLE, IL 60555			HOANG, JOHNNY H	
			ART UNIT	PAPER NUMBER
			3747	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/775,619	BISHOP ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Johnny H. Hoang	3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 February 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-41 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,5,9,13,17,21,25-30,33,36 and 39 is/are rejected.  
 7) Claim(s) 2-3,6-8,10-12,14-16,18-20,22-24,34,35,37,38,40,41 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 03 August 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Inventorship***

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

### ***Claim Objections***

1. Claim 25 is objected to because of the following informalities:

Claim 25, line 4, "that that..." must be changed to –that...--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kramer (US 6,425,370 B1).

Art Unit: 3747

Regarding claim 1, the reference of Suzuki discloses an apparatus for controlling air-fuel ratio for internal combustion engine including the following subject matters:

- a. processing data values for actual engine speed and desired engine speed to yield a data value for engine speed error (col. 5, lines 24-29);
- b. processing the data value for engine speed error according to a governor algorithm for yielding a data value for a mass fuel rate for governed fueling of the engine (col. 5, lines 29-45);
- c. processing the data value for mass fuel rate for governed fueling of the engine and the data value for actual engine speed to yield a data value for a quantity of fuel to be injected into an engine cylinder during an ensuing stroke of a piston within the cylinder (above discussions, and col. 3, line 46 through col. 4, line 42); and
- d. injecting that quantity of fuel into the cylinder during that stroke (see above discussions).

Regarding claim 13, as discussed in claim 1.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 9, 17, 21, 25-33, 36, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer.

Regarding claims 5, 9, 17, 21, 25-33, 36, 39, the reference of Kramer discloses the claimed invention except the multiple cylinders. However, the reference of Kramer discloses the method of load governing of a compression ignition engine in a motor vehicle. It would have been an obvious to one of ordinary skill in the art at the time the invention was made to have utilized the engine being operated with the multiple cylinders.

***Allowable Subject Matter***

6. Claims 2-4, 6-8, 10-12, 14-16, 18-20, 22-24, 34-35, 37-38, and 40-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Barners et al (US 6,850,835 B1), Miranda et al (US 6,786,198 B1), and Rodriguez (US 6,654,678 B1).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny H. Hoang whose telephone number is (571) 272-4843. The examiner can normally be reached on Monday - Thursday (8:00Am-6: 30Pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (571) 272-4856.

Art Unit: 3747

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JHH  
May 11, 2005

Johnny H. Hoang  
Examiner  
Art Unit 3747

*Tony M. Argentbright*  
**Tony M. Argentbright**  
Primary Examiner  
Art Unit 3747